

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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K.S., individually and on behalf of her minor child D.S.

*Plaintiff,*

**ANSWER TO FIRST  
AMENDED COMPLAINT**

-against-

1:24-cv-03390 (JSR)

New York City Department of Education, the Board of  
Education of the City School District of the City of  
New York, Chancellor David C. Banks, in his official  
capacity, and the City of New York

*Defendants.*

----- X

The New York City Department of Education, the Board of Education of the City School District of the City of New York, Chancellor David C. Banks, in his official capacity, and the City of New York (collectively “Defendants”) by their attorney, Muriel Goode-Trufant, Acting Corporation Counsel of the City of New York, for their Answer to the First Amended Complaint (hereinafter “Complaint”), dated July 15, 2024, respectfully state and allege as follows:

1. Deny the allegations set forth in paragraph “1” of the Complaint, except admit that Plaintiff purports to proceed as stated therein, and respectfully refer the Court to the statutes cited therein.

2. Deny the allegations set forth in paragraph “2” of the Complaint.

3. Deny the allegations set forth in paragraph “3” of the Complaint.

4. Deny the allegations set forth in paragraph “4” of the Complaint and respectfully refer the Court to the federal court action cited therein.



5. Deny the allegations set forth in paragraph “5” of the Complaint, except admit that Plaintiff purports to proceed as stated therein, and respectfully refer the Court to the federal court action referenced therein.

6. Admit the allegations set forth in paragraph “6” of the Complaint.

7. Deny the allegations set forth in paragraph “7” of the Complaint, except admit that Plaintiff purports to proceed as stated therein.

8. Deny the allegations set forth in paragraph “8” of the Complaint, except admit that Plaintiff seeks to invoke the Court’s jurisdiction as stated therein, and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

9. Deny the allegations set forth in paragraph “9” of the Complaint, except admit that Plaintiff purports to lay venue in this judicial district as set forth therein, and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

10. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “10” of the Complaint.

11. Deny the allegations set forth in paragraph “11” of the Complaint, except admit D.S. is a student with a disability and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

12. Deny the allegations set forth in paragraph “12” of the Complaint, and respectfully refer the Court to the statutes referenced therein for a complete and accurate description of their provisions.

13. Deny the allegations set forth in paragraph “13” of the Complaint, and respectfully refer the Court to the by-laws referenced therein for a complete and accurate statement of their contents.



14. Deny the allegations set forth in paragraph “14” of the Complaint, and respectfully refer the Court to the statute referenced therein for a complete and accurate description of its provisions.

15. Deny the allegations set forth in paragraph “15” of the Complaint, except admit that David C. Banks is the Chancellor of New York City Public Schools, and respectfully refer the Court to the statute cited therein for a complete and accurate statement of its provisions.

16. Deny the allegations set forth in paragraph “16” of the Complaint, except admit that the City is a municipal corporation subject to the laws of the State of New York and the City of New York.

17. Deny the allegations set forth in paragraph “17” of the Complaint, and respectfully refer the Court to the NYC Administrative Code for the duties and responsibilities of the City.

18. Deny the allegations set forth in paragraph “18” of the Complaint, and respectfully refer the Court to the IDEA cited therein for a complete and accurate statement of its provisions.

19. Deny the allegations set forth in paragraph “19” of the Complaint, except admit that the DOE acts as the “local educational agency” as defined by the Individuals with Disabilities Education Act.

20. Deny the allegations set forth in paragraph “20” of the Complaint, and respectfully refer the Court to Article 52-A of the New York State Education Law for information regarding the powers and duties of the DOE, and to Article 89 of the New York State Education Law for additional information regarding the DOE’s responsibilities concerning students with disabilities.



21. Deny the allegations set forth in paragraph “21” of the Complaint, except admit that the DOE receives federal funds.

22. Deny the allegations set forth in paragraph “22” of the Complaint, except admit that Plaintiff purports to proceed as stated therein.

23. Deny the allegations set forth in paragraph “23” of the Complaint and respectfully refer the Court to the statute cited therein for a complete and accurate statement of its provisions.

24. Deny the allegations set forth in paragraph “24” of the Complaint and respectfully refer the Court to the statute cited therein for a complete and accurate statement of its provisions.

25. Deny the allegations set forth in paragraph “25” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

26. Deny the allegations set forth in paragraph “26” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

27. Deny the allegations set forth in paragraph “27” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

28. Deny the allegations set forth in paragraph “28” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.



29. Deny the allegations set forth in paragraph “29” of the Complaint and respectfully refer the Court to case cited therein for a complete and accurate statement of its holdings.

30. Deny the allegations set forth in paragraph “30” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

31. Deny the allegations set forth in paragraph “31” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

32. Deny the allegations set forth in paragraph “32” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

33. Deny the allegations set forth in paragraph “33” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

34. Deny the allegations set forth in paragraph “34” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

35. Deny the allegations set forth in paragraph “35” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.



36. Deny the allegations set forth in paragraph “36” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

37. Deny the allegations set forth in paragraph “37” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

38. Deny the allegations set forth in paragraph “38” of the Complaint and respectfully refer the Court to the statute cited therein for a complete and accurate statement of its provisions.

39. Deny the allegations set forth in paragraph “39” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

40. Deny the allegations set forth in paragraph “40” of the Complaint and respectfully refer the Court to the statute cited therein for a complete and accurate statement of its provisions.

41. Deny the allegations set forth in paragraph “41” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

42. Deny the allegations set forth in paragraph “42” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.



43. Deny the allegations set forth in paragraph “43” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

44. Deny the allegations set forth in paragraph “44” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

45. Deny the allegations set forth in paragraph “45” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

46. Deny the allegations set forth in paragraph “46” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

47. Deny the allegations set forth in paragraph “47” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

48. Deny the allegations set forth in paragraph “48” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

49. Deny the allegations set forth in paragraph “49” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.



50. Deny the allegations set forth in paragraph “50” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

51. Deny the allegations set forth in paragraph “51” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

52. Deny the allegations set forth in paragraph “52” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

53. Deny the allegations set forth in paragraph “53” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

54. Deny the allegations set forth in paragraph “54” of the Complaint and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

55. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “55” of the Complaint.

56. Deny the allegations set forth in paragraph “56” of the Complaint, except admit that Plaintiff purports to proceed as stated therein.

57. Deny the allegations set forth in paragraph “57” of the Complaint.

58. Deny the allegations set forth in paragraph “58” of the Complaint.

59. Deny the allegations set forth in paragraph “59” of the Complaint, except admit that the DOE has a program called Home Instruction Schools (HIS”).



60. Deny the allegations set forth in paragraph “60” of the Complaint.

61. Deny the allegations set forth in paragraph “61” of the Complaint.

62. Deny the allegations set forth in paragraph “62” of the Complaint.

63. Deny the allegations set forth in paragraph “63” of the Complaint.

64. Deny the allegations set forth in paragraph “64” of the Complaint.

65. Deny the allegations set forth in paragraph “65” of the Complaint.

66. Deny the allegations set forth in paragraph “66” of the Complaint, and respectfully refer the Court to the website referenced therein for a complete and accurate statement of its contents .

67. Deny the allegations set forth in paragraph “67” of the Complaint, and respectfully refer the Court to the website referenced therein for a complete and accurate statement of its contents.

68. Deny the allegations set forth in paragraph “68” of the Complaint.

69. Deny the allegations set forth in paragraph “69” of the Complaint, and respectfully refer the Court to N.Y. Comp. Codes R. & Regs Title 8 § 100.22 for information regarding instruction provided to students.

70. Deny the allegations set forth in paragraph “70” of the Complaint, and respectfully refer the Court to the website referenced therein for a complete and accurate statement of its contents.

71. Deny the allegations set forth in paragraph “71” of the Complaint.

72. Deny the allegations set forth in paragraph “72” of the Complaint.

73. Deny the allegations set forth in paragraph “73” of the Complaint.

74. Deny the allegations set forth in paragraph “74” of the Complaint.



75. Deny the allegations set forth in paragraph “75” of the Complaint.

76. Deny the allegations set forth in paragraph “76” of the Complaint.

77. Deny the allegations set forth in paragraph “77” of the Complaint.

78. Deny the allegations set forth in paragraph “78” of the Complaint.

79. Deny the allegations set forth in paragraph “79” of the Complaint.

80. Deny the allegations set forth in paragraph “80” of the Complaint.

81. Deny the allegations set forth in paragraph “81” of the Complaint.

82. Deny the allegations set forth in paragraph “82” of the Complaint, and respectfully refer the Court to the decision referenced therein for a complete and accurate description of its provisions.

83. Deny the allegations set forth in paragraph “83” of the Complaint.

84. Deny the allegations set forth in paragraph “84” of the Complaint.

85. Deny the allegations set forth in paragraph “85” of the Complaint, and respectfully refer the Court to the statute referenced therein for a complete and accurate description of its provisions.

86. Deny the allegations set forth in paragraph “86” of the Complaint, and respectfully refer the Court to the statute referenced therein for a complete and accurate description of its provisions.

87. Deny the allegations set forth in paragraph “87” of the Complaint, and respectfully refer the Court to the statute referenced therein for a complete and accurate description of its provisions.



88. Deny the allegations set forth in paragraph “88” of the Complaint, and respectfully refer the Court to the statute referenced therein for a complete and accurate description of its provisions.

89. Deny the allegations set forth in paragraph “89” of the Complaint, and respectfully refer the Court to the statute referenced therein for a complete and accurate description of its provisions.

90. Deny the allegations set forth in paragraph “90” of the Complaint.

91. Deny the allegations set forth in paragraph “91” of the Complaint.

92. Deny the allegations set forth in paragraph “92” of the Complaint.

93. Deny the allegations set forth in paragraph “93” of the Complaint.

94. Deny the allegations set forth in paragraph “94” of the Complaint.

95. Deny the allegations set forth in paragraph “95” of the Complaint.

96. Deny the allegations set forth in paragraph “96” of the Complaint.

97. Deny the allegations set forth in paragraph “97” of the Complaint.

98. Deny the allegations set forth in paragraph “98” of the Complaint.

99. Deny the allegations set forth in paragraph “99” of the Complaint, and respectfully refer the Court to the case and statute cited therein for a complete and accurate statement of their holdings and provisions.

100. Deny the allegations set forth in paragraph “100” of the Complaint, and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.



101. Deny the allegations set forth in paragraph “101” of the Complaint, and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

102. Deny the allegations set forth in paragraph “102” of the Complaint, and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

103. Deny the allegations set forth in paragraph “103” of the Complaint, and respectfully refer the Court to the statute cited therein for a complete and accurate statement of their provisions.

104. Deny the allegations set forth in paragraph “104” of the Complaint, and respectfully refer the Court to the statute cited therein for a complete and accurate statement of its provisions.

105. Deny the allegations set forth in paragraph “105” of the Complaint, and respectfully refer the Court to the statute cited therein for a complete and accurate statement of its provisions.

106. Deny the allegations set forth in paragraph “106” of the Complaint, and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of their provisions.

107. Deny the allegations set forth in paragraph “107” of the Complaint, and respectfully refer the Court to the statutes cited therein.

108. Deny the allegations set forth in paragraph “108” of the Complaint.

109. Deny the allegations set forth in paragraph “109” of the Complaint.

110. Deny the allegations set forth in paragraph “110” of the Complaint.



111. Deny the allegations set forth in paragraph “111” of the Complaint, and respectfully refer the Court to the statutes cited therein for a complete and accurate statement of its contents.

112. Deny the allegations set forth in paragraph “112” of the Complaint.

113. Deny the allegations set forth in paragraph “113” of the Complaint.

114. Deny the allegations set forth in paragraph “114” of the Complaint, and respectfully refer the Court to the records referenced therein for a complete and accurate statement of their contents.

115. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “115” of the Complaint, except admit that on May 22, 2018, K.S. adopted D.S.

116. Admit the allegations set forth in paragraph “116” of the Complaint.

117. Deny the allegations set forth in paragraph “117” of the Complaint, except admit several due process complaints have been filed by KS.

118. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “118” of the Complaint.

119. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “119” of the Complaint.

120. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “120” of the Complaint.

121. Deny the allegations set forth in paragraph “121” of the Complaint.



122. Deny the allegations set forth in paragraph “122” of the Complaint, and respectfully refer the Court to the records referenced therein for a complete and accurate statement of D.S.’s diagnosis and disability.

123. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “123” of the Complaint.

124. Admit the allegations set forth in paragraph “124” of the Complaint.

125. Deny the allegations set forth in paragraph “125” of the Complaint, and respectfully refer the Court to the complaints referenced therein for a complete and accurate statement of its contents.

126. Deny the allegations set forth in paragraph “126” of the Complaint, except admit that DOE provided funding for some or all of the 2018-2019 school year.

127. Deny the allegations set forth in paragraph “127” of the Complaint.

128. Deny the allegations set forth in paragraph “128” of the Complaint, and respectfully refer the Court to the decision referenced therein for a complete and accurate statement of its provisions.

129. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “129” of the Complaint.

130. Deny the allegations set forth in paragraph “130” of the Complaint.

131. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “131” of the Complaint.

132. Deny the allegations set forth in paragraph “132” of the Complaint, except admit D.S. attended Fusion Academy for some or all of the 2019-220 school year.



133. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “133” of the Complaint.

134. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “134” of the Complaint.

135. Deny the allegations set forth in paragraph “132” of the Complaint, except admit D.S. did not attend Fusion Academy after June 1, 2020.

136. Deny the allegations set forth in paragraph “136” of the Complaint, except admit D.S. received services at Lindamood-Bell during the 2019-2020 school year.

137. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “137” of the Complaint.

138. Deny the allegations set forth in paragraph “138” of the Complaint, except admit that due to the COVID-19 Pandemic, schools, and special education programs switched to remote learning in March 2020.

139. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “139” of the Complaint.

140. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “140” of the Complaint.

141. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “141” of the Complaint.

142. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “142” of the Complaint.

143. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “143” of the Complaint.



144. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “144” of the Complaint.

145. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “145” of the Complaint.

146. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “146” of the Complaint.

147. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “147” of the Complaint.

148. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “148” of the Complaint.

149. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “149” of the Complaint, except admit D.S. attended KidsPeace in July 2020.

150. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “150” of the Complaint.

151. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “151” of the Complaint.

152. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “152” of the Complaint.

153. Deny the allegations set forth in paragraph “153” of the Complaint, except admit an IEP meeting was held on August 28, 2020.



154. Deny the allegations set forth in paragraph “154” of the Complaint, and respectfully refer the Court to the documents referenced therein for a complete and accurate statement of its provisions.

155. Deny the allegations set forth in paragraph “154” of the Complaint, and respectfully refer the Court to the transcript of the testimony referenced therein for a complete and accurate statement of its contents.

156. Deny the allegations set forth in paragraph “156” of the Complaint.

157. Deny the allegations set forth in paragraph “157” of the Complaint, except admit that after the August 2020 IEP meeting, the DOE assigned a “case manager” from the CBST.

158. Admit the allegations set forth in paragraph “158” of the Complaint .

159. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “159” of the Complaint.

160. Deny the allegations set forth in paragraph “160” of the Complaint.

161. Deny the allegations set forth in paragraph “161” of the Complaint, except Plaintiff filed a DPC on or about August 25, 2020.

162. Deny the allegations set forth in paragraph “162” of the Complaint, except admit the DPC filed on August 25, 2020, was assigned Case No. 197100.

163. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “163” of the Complaint.

164. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “164” of the Complaint.

165. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “165” of the Complaint.



166. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “166” of the Complaint.

167. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “167” of the Complaint.

168. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “168” of the Complaint.

169. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “169” of the Complaint.

170. Deny the allegations in paragraph “170” of the Complaint.

171. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “171” of the Complaint.

172. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “172” of the Complaint, except admit that DOE was unable to locate a private program that accepted D.S..

173. Deny the allegations in paragraph “173” of the Complaint.

174. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “174” of the Complaint.

175. the allegations set forth in paragraph “175” of the Complaint, and respectfully refer the Court to the transcript of the testimony referenced therein for a complete and accurate statement of its contents.

176. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “176” of the Complaint, except admit D.S. was enrolled at Kaizen in March 2021.



177. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “177” of the Complaint, except admit D.S. was enrolled at Kaizen in March 2021.

178. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “178” of the Complaint.

179. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “179” of the Complaint, except admit D.S. was enrolled at Kaizen in March 2021.

180. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “180” of the Complaint.

181. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “181” of the Complaint.

182. Deny the allegations set forth in paragraph “182” of the Complaint, and respectfully refer the Court to the decision referenced therein for a complete and accurate statement of its provisions.

183. Deny the allegations set forth in paragraph “183” of the Complaint, and respectfully refer the Court to the decision referenced therein for a complete and accurate statement of its provisions.

184. Admit the allegation set forth in paragraph “184” of the Complaint.

185. Deny the allegations set forth in paragraph “185” of the Complaint.

186. Deny the allegations set forth in paragraph “186” of the Complaint.

187. Deny the allegations set forth in paragraph “187” of the Complaint.



188. Deny the allegations set forth in paragraph “188” of the Complaint, and respectfully refer the Court to the IEP and FOFD referenced therein for a complete and accurate statement of their contents.

189. Deny the allegations set forth in paragraph “189” of the Complaint, and deny knowledge or information sufficient to form a belief as to the truth of the allegations that K.S. was told D.S. would be discharged if she did not find a placement.

190. Deny the allegations set forth in paragraph “190” of the Complaint.

191. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “191” of the Complaint.

192. Deny the allegations set forth in paragraph “192” of the Complaint that DOE’s only option was to place D.S. in District 75 and that it was an inappropriate placement option, except admit DOE offered provided D.S. placement in District 75, and deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

193. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “193” of the Complaint.

194. Deny the allegations set forth in paragraph “194” of the Complaint, except admit that DOE’s CBST referred D.S.’s case to both in and out of state schools for potential placement, and deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

195. Deny the allegations set forth in paragraph “195” of the Complaint, except admit that D.S. was attending the Stetson School as of January 2022.

196. Deny the allegations set forth in paragraph “196” of the Complaint.



197. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “197” of the Complaint.

198. Deny the allegations set forth in paragraph “198” of the Complaint, except admit an IEP meeting was held on May 20, 2022.

199. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “199” of the Complaint.

200. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “200” of the Complaint.

201. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “201” of the Complaint.

202. Deny the allegations set forth in paragraph “202” of the Complaint.

203. Deny the allegations set forth in paragraph “203” of the Complaint.

204. Deny the allegations set forth in paragraph “204” of the Complaint.

205. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “205” of the Complaint.

206. Deny the allegations set forth in paragraph “206” of the Complaint.

207. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “207” of the Complaint.

208. Deny the allegations set forth in paragraph “208” of the Complaint, and respectfully refer the Court to the decision referenced therein for a complete and accurate statement of its provisions.



209. Deny the allegations set forth in paragraph “209” of the Complaint, and respectfully refer the Court to the transcript of the testimony referenced therein for a complete and accurate statement of its contents.

210. Deny the allegations set forth in paragraph “210” of the Complaint, and respectfully refer the Court to the decision referenced therein for a complete and accurate statement of its provisions.

211. Deny the allegations set forth in paragraph “211” of the Complaint, and respectfully refer the Court to the decision referenced therein for a complete and accurate statement of its provisions.

212. Deny the allegations set forth in paragraph “212” of the Complaint.

213. Deny the allegations set forth in paragraph “213” of the Complaint, and respectfully refer the Court to ECF No. 77 referenced therein for a complete and accurate statement of its directives.

214. Deny the allegations set forth in paragraph “214” of the Complaint, except admit D.S. was released from detention and thereafter admitted to Flowers as of February 2023, and deny knowledge or information sufficient to form a belief as to the truth of the allegations as to what K.S. did after D.S. was admitted to Flowers.

215. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “215” of the Complaint.

216. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “216” of the Complaint.

217. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “217” of the Complaint.



218. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “218” of the Complaint.

219. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “219” of the Complaint.

220. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “220” of the Complaint.

221. Deny the allegations set forth in paragraph “221” of the Complaint, and respectfully refer the Court to ECF No. 95-106 referenced therein for a complete and accurate statement of its directives.

222. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “222” of the Complaint.

223. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “223” of the Complaint.

224. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “224” of the Complaint.

225. Deny the allegations set forth in paragraph “225” of the Complaint, except admit that by July 2023, DOE secured a seat for D.S. in JRC, a New York State-approved non-public, residential school located in Massachusetts.

226. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “226” of the Complaint.

227. Deny the allegations set forth in paragraph “221” of the Complaint, and respectfully refer the Court to the hearing referenced therein for a complete and accurate statement of its directives.



228. Deny the allegations set forth in paragraph “228” of the Complaint.

229. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “229” of the Complaint.

230. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “230” of the Complaint.

231. Deny the allegations set forth in paragraph “231” of the Complaint.

232. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “232” of the Complaint.

233. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “233” of the Complaint.

234. Deny the allegations set forth in paragraph “234” of the Complaint, except admit that D.S. will turn 18 in February 2025.

235. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “235” of the Complaint.

236. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “236” of the Complaint.

237. Deny the allegations set forth in paragraph “237” of the Complaint.

238. Deny the allegations set forth in paragraph “238” of the Complaint.

239. Deny the allegations set forth in paragraph “239” of the Complaint, except admit Defendants disclosed documents, and respectfully refer the Court to those documents for a complete and accurate statement of their contents.

240. Deny the allegations set forth in paragraph “240” of the Complaint.

241. Deny the allegations set forth in paragraph “241” of the Complaint.



242. Deny the allegations set forth in paragraph “242” of the Complaint.

243. Deny the allegations set forth in paragraph “243” of the Complaint.

244. Deny the allegations set forth in paragraph “244” of the Complaint.

245. Deny the allegations set forth in paragraph “245” of the Complaint.

246. Deny the allegations set forth in paragraph “246” of the Complaint.

247. Deny the allegations set forth in paragraph “247” of the Complaint.

248. Deny the allegations set forth in paragraph “248” of the Complaint.

249. Deny the allegations set forth in paragraph “249” of the Complaint.

250. Deny the allegations set forth in paragraph “250” of the Complaint, and respectfully refer the Court to the transcript of the testimony referenced therein for a complete and accurate statement of its contents.

251. Deny the allegations set forth in paragraph “251” of the Complaint.

252. Deny the allegations set forth in paragraph “252” of the Complaint.

253. Deny the allegations set forth in paragraph “253” of the Complaint.

254. Deny the allegations set forth in paragraph “254” of the Complaint.

255. Deny the allegations set forth in paragraph “255” of the Complaint, and respectfully refer the Court to the testimony referenced therein for a complete and accurate statement of its contents.

256. Deny the allegations set forth in paragraph “256” of the Complaint.

257. Deny the allegations set forth in paragraph “257” of the Complaint, and respectfully refer the Court to the transcript of the testimony referenced therein for a complete and accurate statement of its contents.

258. Deny the allegations set forth in paragraph “257” of the Complaint.



259. Deny the allegations set forth in paragraph “257” of the Complaint, and respectfully refer the Court to the transcript of the testimony referenced therein for a complete and accurate statement of its contents.

260. Deny the allegations set forth in paragraph “260” of the Complaint.

261. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “261” of the Complaint, except admit CBST sent applications to out of state programs for D.S.

262. Deny the allegations set forth in paragraph “262” of the Complaint, and respectfully refer the Court to the statute cited therein for a complete and accurate statement of its provisions.

263. Deny the allegations set forth in paragraph “263” of the Complaint, and respectfully refer the Court to the transcript of the hearing referenced therein for a complete and accurate statement of its contents.

264. Deny the allegations set forth in paragraph “264” of the Complaint.

265. Deny the allegations set forth in paragraph “265” of the Complaint, and respectfully refer the Court to the decision referenced therein for a complete and accurate statement of its findings and provisions.

266. Deny the allegations set forth in paragraph “266” of the Complaint, and respectfully refer the Court to the decision referenced therein for a complete and accurate statement of its findings and provisions.

267. Admit the allegations set forth in paragraph “267” of the Complaint.

268. Admit the allegations set forth in paragraph “268” of the Complaint.



269. Deny the allegations set forth in paragraph “269” of the Complaint, and respectfully refer the Court to the decision referenced therein for a complete and accurate statement of its findings and provisions.

270. Deny the allegations set forth in paragraph “270” of the Complaint.

271. Deny the allegations set forth in paragraph “271” of the Complaint.

272. Deny the allegations set forth in paragraph “272” of the Complaint.

273. Deny the allegations set forth in paragraph “273” of the Complaint.

274. Deny the allegations set forth in paragraph “274” of the Complaint.

275. Deny the allegations set forth in paragraph “275” of the Complaint.

276. Deny the allegations set forth in paragraph “276” of the Complaint.

277. Deny the allegations set forth in paragraph “277” of the Complaint.

278. Deny the allegations set forth in paragraph “278” of the Complaint.

279. Deny the allegations set forth in paragraph “269” of the Complaint, and respectfully refer the Court to the SRO Decision referenced therein for a complete and accurate statement of its findings and provisions.

280. Deny the allegations set forth in paragraph “280” of the Complaint, except admit that Plaintiff purports to proceed as stated therein.

281. Deny the allegations set forth in paragraph “281” of the Complaint.

282. Deny the allegations set forth in paragraph “282” of the Complaint.

283. Deny the allegations set forth in paragraph “283” of the Complaint.

284. Deny the allegations set forth in paragraph “284” of the Complaint.

285. Deny the allegations set forth in paragraph “285” of the Complaint.

286. Deny the allegations set forth in paragraph “286” of the Complaint.



287. Deny the allegations set forth in paragraph “287” of the Complaint.

288. Deny the allegations set forth in paragraph “288” of the Complaint, and respectfully refer the Court to the statute cited therein for a complete and accurate statement of its provisions.

289. Deny the allegations set forth in paragraph “289” of the Complaint.

290. Deny the allegations set forth in paragraph “290” of the Complaint.

291. Deny the allegations set forth in paragraph “291” of the Complaint.

292. Deny the allegations set forth in paragraph “292” of the Complaint.

293. Deny the allegations set forth in paragraph “293” of the Complaint.

294. Deny the allegations set forth in paragraph “294” of the Complaint.

295. Deny the allegations set forth in paragraph “295” of the Complaint.

296. Defendants repeat and re-assert each and every response contained in paragraphs “1” through “296”, inclusive of paragraph “296”, as if fully set forth herein.

297. Deny the allegations set forth in paragraph “297” of the Complaint.

298. Deny the allegations set forth in paragraph “298” of the Complaint.

299. Admit the allegations set forth in paragraph “299” of the Complaint.

300. Admit the allegations set forth in paragraph “300” of the Complaint.

301. Deny the allegations set forth in paragraph “301” of the Complaint.

302. Deny the allegations set forth in paragraph “302” of the Complaint.

303. Deny the allegations set forth in paragraph “303” of the Complaint.

304. Defendants repeat and re-assert each and every response contained in paragraphs “1” through “304”, inclusive of paragraph “304”, as if fully set forth herein.

305. Deny the allegations set forth in paragraph “305” of the Complaint.



306. Deny the allegations set forth in paragraph “306” of the Complaint.

307. Deny the allegations set forth in paragraph “307” of the Complaint.

308. Deny the allegations set forth in paragraph “308” of the Complaint.

309. Deny the allegations set forth in paragraph “309” of the Complaint.

310. Deny the allegations set forth in paragraph “310” of the Complaint.

311. Deny the allegations set forth in paragraph “311” of the Complaint.

312. Deny the allegations set forth in paragraph “312” of the Complaint.

313. Deny the allegations set forth in paragraph “313” of the Complaint.

314. Deny the allegations set forth in paragraph “314” of the Complaint.

315. Defendants repeat and re-assert each and every response contained in paragraphs “1” through “315”, inclusive of paragraph “315”, as if fully set forth herein.

316. Deny the allegations set forth in paragraph “316” of the Complaint.

317. Deny the allegations set forth in paragraph “317” of the Complaint.

318. Deny the allegations set forth in paragraph “318” of the Complaint.

319. Deny the allegations set forth in paragraph “319” of the Complaint.

320. Deny the allegations set forth in paragraph “320” of the Complaint.

321. Deny the allegations set forth in paragraph “321” of the Complaint.

322. Deny the allegations set forth in paragraph “322” of the Complaint.

**AS AND FOR A FIRST DEFENSE:**

323. The Complaint, in whole or in part, fails to state a claim upon which relief may be granted.

**AS AND FOR A SECOND DEFENSE:**



324. Defendants have not violated any rights, privileges or immunities under the Constitution or laws of the United States, of the State of New York, or of any political subdivision thereof.

**AS AND FOR A THIRD DEFENSE:**

325. At all times relevant to the acts alleged in the Complaint, Defendants acted reasonably, properly, lawfully, without malice, and in good faith.

**AS AND FOR A FOURTH DEFENSE:**

326. Plaintiff is not entitled to an award of compensatory education, educational consultant fees, other services or equitable relief.

**AS AND FOR A FIFTH DEFENSE:**

327. The rates charged and hours billed by Plaintiff's Counsel are not reasonable.

**AS AND FOR A SIXTH DEFENSE:**

328. Plaintiff is not entitled to preliminary injunctive relief.

**AS AND FOR AN SEVENTH DEFENSE:**

329. As to the systemic allegations, Plaintiff has failed to state a cognizable claim.

**AS AND FOR AN EIGHTH DEFENSE:**

330. Plaintiff has failed to provide complete documentation and information sufficient to support an award of reasonable attorney's fees.

**AS AND FOR A NINTH DEFENSE:**

331. Plaintiff's request for declaratory relief for some or all claims should be denied as moot.

**AS AND FOR A TENTH DEFENSE:**



332. Some or all of Plaintiff's claims are barred by the applicable statute of limitations.

**AS AND FOR A ELEVENTH DEFENSE:**

333. Plaintiff failed to exhaust administrative remedies.

**AS AND FOR A TWELFTH DEFENSE:**

334. Plaintiff's claims may be barred by res judicata and/or collateral estoppel.

**AS AND FOR A THIRTEENTH DEFENSE:**

335. Plaintiff may have failed to provide appropriate documentation for implementation of the administrative order they seek to implement here.

**AS AND FOR A FOURTEENTH DEFENSE:**

336. Plaintiff failed to satisfy condition precedents to suit.

**WHEREFORE,** Defendants request judgment dismissing the First Amended Complaint as against Defendants and denying all relief requested by Plaintiff therein, together with such other and further relief in favor of Defendants as the Court deems just and proper.

Dated: July 30, 2024  
New York, New York

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